



LIBRARY OF CONGRESS

Copyright Royalty Board

Notice of Intent to Audit

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Public notice.

SUMMARY: The Copyright Royalty Judges announce receipt of five notices of intent to audit the 2010, 2011, and 2012 statements of account submitted by Sirius XM Radio, Inc.; IMUV, Inc.; Crystal Media Networks; Pandora Media, Inc.; LoudCity LLC concerning the royalty payments made by each pursuant to two statutory licenses.

FOR FURTHER INFORMATION CONTACT: LaKeshia Keys, Program Specialist, by telephone at (202) 707-7658 or email at crb@loc.gov.

SUPPLEMENTARY INFORMATION: The Copyright Act, title 17 of the United States Code, grants to copyright owners of sound recordings the exclusive right to perform publicly sound recordings by means of certain digital audio transmissions, subject to limitations. Specifically, this right is limited by two statutory licenses. The section 114 license allows the public performance of sound recordings by means of digital audio transmissions by nonexempt noninteractive digital subscription services and eligible nonsubscription services. 17 U.S.C. 114(f). The section 112 license allows a service to make any necessary ephemeral reproductions to facilitate the digital transmission of the sound recording, including the ephemeral recordings made by entities that transmit performances of sound recordings to business establishments, subject to the limitations set forth in section 114(d)(1)(C)(iv), to facilitate such transmissions. 17 U.S.C. 112(e). The section 112 license also provides a means by which a transmitting entity

with a statutory license under section 114(f) may make more than one phonorecord permitted under the exemption set forth in section 112(a). *Id.*

Licensees may operate under these licenses provided they pay the royalty fees and comply with the terms set by the Copyright Royalty Judges (Judges). The rates and terms for the section 112 and 114 licenses are set forth in 37 CFR parts 380 (eligible nonsubscription services (webcasters)), 382 (preexisting subscription services and preexisting satellite digital audio radio services), 383 (new subscription services), and 384 (business establishments). As part of the terms set for these licenses, the Judges designated SoundExchange, Inc., as the organization charged with collecting the royalty payments and statements of account submitted by the various eligible services and distributing the royalties to the copyright owners and performers entitled to receive such royalties under the section 112 and 114 licenses. 37 CFR 380.4(b), 382.13(b), 383.4(a), and 384(b). As the designated Collective, SoundExchange may conduct a single audit of a licensee for any calendar year for the purpose of verifying their royalty payments. *Id.* at §§ 380.4(b), 382.15(b),¹ and 384.6(b). Prior to conducting an audit, SoundExchange must file with the Judges a notice of intent to audit a licensee and serve the notice on the licensee to be audited. *Id.* at §§ 380.6(c), 382.15(c), and 384.6(c).

On December 20, 2013, SoundExchange filed with the Judges five separate notices of intent to audit IMUC, Inc. (IMUC), Crystal Media Networks (CMN), Pandora Media, Inc. (Pandora) and LoudCity LLC (LoudCity) for their webcasting services, and Sirius XM Radio, Inc. (Sirius XM) for its various services: webcasting service, preexisting satellite digital audio

¹ SoundExchange's authority to audit new subscription services falls under § 383.4(a), which states in pertinent part that "terms governing . . . audit and verification of royalty payments and distributions, cost of audit and verification . . . shall be those adopted by the [Judges] for subscription transmissions and the reproduction of ephemeral recordings by preexisting satellite digital audio radio services in 37 CFR part 382, subpart B."

radio service, new subscription service, and business establishment service for the years 2010, 2011, and 2012.

Sections 380.6(c), 382.15(c), and 384.6(c) require the Judges to publish a notice in the **Federal Register** within 30 days of receipt of the notice announcing the Collective's intent to conduct an audit. Today's notice fulfills this requirement with respect to SoundExchange's notices of intent to audit IMUC, CMN, Pandora, LoudCity and Sirius XM, filed December 20, 2013.

Dated: January 10, 2014

Suzanne M. Barnett,
Chief Copyright Royalty Judge.

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